THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.10529 OF 2002

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DATED: 24-04-2006

BETWEEN

Basheer Ahmed,

S/o. Johnym,

R/o. 12-2-247,

Zebagh Bhagh,

Hyderabad.

...PETITIONER

AND

Assistant City Planner, Circle No.4,

Municipal Corporation of Hyderabad,

Khairatabad, Hyderabad

and others.

...RESPONDENTS

ORDER:

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Petitioner seeks a Writ of Mandamus to declare the action of the first respondent dated 12.06.2002 in orally threatening to demolish his Mulgi No.10-2-356 situated at Asifnagar Road, Hyderabad as illegal and arbitrary.

Learned counsel for the petitioner submits that petitioner is the tenant of Mulgi No.10-2-356 situated at Asifnagar Road, Hyderabad since long time and eking out his livelihood on the income derived from his business in the said mulgi. He further submits that respondent corporation has taken up a massive road-widening programme and the premises occupied by the petitioner is getting affected as the third respondent, who is the landlord, has given consent for demolition of the said mulgi on a promise of compensation and permission for a three storied complex in the remaining area.

He further submits that the officials of the respondent corporation visited the premises of the petitioner on 12.06.2002 and directed him to vacate the said premises, as the third respondent has given consent for demolition of the mulgi for road widening.

The learned counsel further submits that the respondents without issuing any notice, without following the due procedure prescribed under law and without initiating proceedings under the Land Acquisition Act, are threatening to demolish the premises of the petitioner, which action is utter violation of principles of natural justice as well as Sections 146 and 147 of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act').

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of the private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law. The tenant being the interested person he is also entitled for a notice.

Having regard to the facts and circumstances of the case,

the respondents are directed not to demolish the structures or take away any portion of the premises of the petitioner and not to dispossess him without following due process of law either under Section 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894. No costs.

The writ petition is accordingly disposed of. No costs.

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V. ESWARAIAH, J

April 24, 2006

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